

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

APPLE MACPRO COMPUTER, et al.

:
:
:
:
:
:
:

Case No. 15-mj-850

**MOTION FOR STAY OF CONTEMPT ORDER
AND RELEASE FROM CUSTODY**

Francis Rawls, by and through counsel, hereby moves for a stay of the order of civil contempt imposed on September 30, 2015, as supplemented October 5, 2015, and for his immediate release from custody under said order, with no further confinement to follow. In support, it is represented as follows:

1. These proceedings arise from Mr. Rawls's assertion of his Fifth Amendment right against self-incrimination in response to a demand that he recall and divulge computer passwords for investigators' use in deciphering encrypted content on devices seized from Mr. Rawls's home on March 30, 2015.

2. By order of August 27, 2015, the Honorable Thomas J. Rueter held that the Fifth Amendment did not protect Mr. Rawls from compelled disclosure of the passwords. Mr. Rawls thereafter appeared at the Delaware County Office of the District Attorney, where the previously seized devices had been secured, and entered passwords into a forensic interface set up by investigators. The passwords did not work.

3. Based on a finding that Mr. Rawls was able to recall the passwords, this Court thereafter held him in contempt on September 30, 2015, and that day remanded him to custody to

be confined indefinitely. Mr. Rawls has now been imprisoned under the order of contempt for 23 months.

4. As detailed in the accompanying memorandum of law, confinement on the part of “recalcitrant witnesses” in federal judicial proceedings is limited by statute to a period of no more than 18 months. 28 U.S.C. § 1826(a). That statutory limitation applies here. Mr. Rawls has therefore been imprisoned for a period that exceeds the maximum authorized by law, and accordingly he must be released forthwith.

WHEREFORE, Francis Rawls, by and through counsel, respectfully requests that the order of contempt be stayed and that he be released from custody, with no further confinement to follow.

Respectfully submitted,

/s/ Keith M. Donoghue

KEITH M. DONOGHUE
Assistant Federal Defender

BRETT G. SWEITZER
Assistant Federal Defender
Chief of Appeals

LEIGH M. SKIPPER
Chief Federal Defender

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

APPLE MACPRO COMPUTER, et al.

:
:
:
:
:
:
:

Case No. 15-mj-850

ORDER

AND NOW, this ____ day of _____, 2017, upon consideration of Francis Rawls's *Motion for Stay of Contempt Order and Release from Custody*, the memorandum of law in support, the government's response thereto, if any, and the proceedings before this Court on August 31, 2017, it is hereby **ORDERED** that the order of civil contempt issued on September 30, 2015 (Doc. No. 20), as supplemented October 5, 2015 (Doc. No. 21), is **STAYED**; and Francis Rawls, Reg. #72421-066, shall be **RELEASED** from custody forthwith, with no further confinement to follow.

BY THE COURT:

HONORABLE CYNTHIA M. RUFE
United States District Court Judge

CERTIFICATE OF SERVICE

I, Keith M. Donoghue, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I have electronically filed this *Motion for Stay of Contempt Order and Release from Custody* and served a copy upon Filing User Michelle Rotella, Esq., through the Third Circuit Court of Appeals' Electronic Case Filing (CM/ECF) system.

/s/ Keith M. Donoghue
KEITH M. DONOGHUE
Assistant Federal Defender

DATE: August 28, 2017